IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2714 OF 2006

Anis Hussain Bagwan Petitioner
versus
President/Secretary, Karmala Education Sanstha & others Respondents

Smt.Aarti P. Bhide for petitioner.
Mrs.S.Bhende, AGP for respondents 3 & 4.

CORAM : F.I.REBELLO AND
R.V.MORE, JJ.

DATE : 29th January 2007

PC :

1. The petitioner was appointed on 14th June 2000 as Shikshan Sevak. The approval has been granted as Shikshan Sevak. As she was not appointed as Assistant Teacher in spite of completing three years of service, the petitioner moved the Grievance Committee which directed that the petitioner should be appointed as Assistant Teacher on completion of three years as Shikshan Sevak. That has already been done.

2. The grievance of the petitioner, however, is that respondent nos.5, 6 and 7 were appointed

after the petitioner; approval has been granted to them as Assistant Teachers. It is pointed out that they were also appointed pursuant to the same advertisement. The Circular of appointment as Shikshan Sevak was first issued on 27th April 2000 and the same was repealed and what is now in force is Circular of 13th October 2000. Considering that, it is pointed out that the petitioner also ought to have been appointed as Assistant Teachers. The learned counsel points out that the Grievance Committee has also found the action of respondent nos.3 and 4 in appointing respondent nos.5 to 7 as Assistant Teachers, as arbitrary.

3. Respondent nos.5 to 7 are not before us. A reply has been filed by Shri Vasant Ganpat Hake, Education Officer (Secondary), Zilla Parishad, Solapur. It is pointed out that the Education Department has admitted that the approvals to respondent nos.5 to 7’s appointment were given in the scale of Assistant Teacher by mistake. Now, the mistake has to be rectified and the excess amount paid towards the salary has to be recovered either from respondent nos. 5 to 7 or from the non salary grants of the respondent no.2 school after seeking permission from the Deputy

Director of Education.

4. Insofar as merits of the petition are concerned, we are clearly of the opinion that there is no right in the petitioner to be appointed as Assistant Teacher from 14th June 2000 as admittedly the GR for Shikshan Sevaks was in force and that is the subject matter of petitions pending before this Court. Insofar as recovery of excess salary paid to respondent nos.5 to 7 is concerned, that is for respondent nos.3 and 4 to take action. Insofar as seniority is concerned, it will be open to the petitioner to represent to respondent no.3 and respondent no.3 on receipt of the representation and after hearing the petitioner and respondent nos.5 to 7, to issue necessary directions in the matter of inter-se seniority not later than three months of the receipt of representation. With the above directions the petition is disposed off. There shall be no order as to costs.

(R.V.MORE, J.) (F.I.REBELLO, J.)